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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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12 HSBC BANK USA, NATIONAL
13 ASSOCIATION, *as Trustee for*
Luminent Mortgage Trust 2007-1,

14 Plaintiff,

15 v.

16 SEAN THOMAS WASGREN, *et al.*,

17 Defendants.
18

Case No. SA CV 17-0980 JLS (JCGx)

**ORDER SUMMARILY REMANDING
IMPROPERLY REMOVED ACTION**

19 The Court will summarily remand this unlawful detainer action to state court
20 because Defendant removed it improperly.

21 On June 7, 2017, Michael Miller¹ (“Defendant”), having been sued in what
22 appears to be a routine unlawful detainer action in California state court, lodged a
23 Notice of Removal of that action in this Court (“Notice”) and also presented a request
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25 ¹ Defendant’s Notice of Removal names “A. Martines” as Defendant and references a case in
26 the Los Angeles County Superior Court, but this appears to be a typographical error. (*See* Notice at
27 1.) The Court takes judicial notice of the fact that Michael Miller is a defendant in this action and
28 that the instant case originated in the Orange County Superior Court, based on Orange County
Superior Court records. *See* [https://ocapps.occourts.org/civilwebShoppingNS/ShowUDCase.do?](https://ocapps.occourts.org/civilwebShoppingNS/ShowUDCase.do?index=0&number=30-2016-00871727-CL-UD-NJC&tab=0#caseAnchor)
[index=0&number=30-2016-00871727-CL-UD-NJC&tab=0#caseAnchor](https://ocapps.occourts.org/civilwebShoppingNS/ShowUDCase.do?index=0&number=30-2016-00871727-CL-UD-NJC&tab=0#caseAnchor); *see also* *Porter v. Ollison*,
620 F.3d 952, 954-55 n.1 (9th Cir. 2010) (taking judicial notice of state court docket and filings).

1 to proceed *in forma pauperis* (“Request”). [Dkt. Nos. 1, 3.] The Court has denied
2 Defendant’s Request under separate cover because the action was improperly removed.
3 To prevent the action from remaining in jurisdictional limbo, the Court issues this
4 Order to remand the action to state court.

5 Simply stated, Plaintiff could not have brought this action in federal court in the
6 first place, and so removal is improper. Notably, even if complete diversity of
7 citizenship exists, Defendant cannot properly remove the action because Defendant
8 resides in the forum state. (*See* Notice at 1); *see also* 28 U.S.C. § 1441(b)(2).

9 Nor does Plaintiff’s unlawful detainer proceeding raise any federal legal
10 question. *See* 28 U.S.C. §§ 1331, 1441. Pursuant to the “well-pleaded complaint
11 rule,” federal-question jurisdiction exists “only when a federal question is presented on
12 the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v. Williams*,
13 482 U.S. 386, 392 (1987). Here, Plaintiff’s underlying complaint asserts a cause of
14 action for unlawful detainer. [*See* Notice at 2.] “Unlawful detainer is an exclusively
15 state law claim that does not require the resolution of any substantial question of
16 federal law.” *Martingale Invs., LLC v. Frausto*, 2013 WL 5676237, at *2 (C.D. Cal.
17 Oct. 17, 2013). In the Notice, Defendant claims that Plaintiff has violated his “right to
18 due process, a federal issue.” (Notice at 2.) However, Defendant fails to allege that
19 any federal law appears on the face of Plaintiff’s well-pleaded complaint.² (*See*
20 *generally* Notice); *see also Caterpillar*, 482 U.S. at 392. Thus, there is no basis for
21 federal question jurisdiction. *See Caterpillar*, 482 U.S. at 392; *Vaden v. Discover*
22 *Bank*, 556 U.S. 49, 60 (2009) (holding that federal-question jurisdiction “cannot be
23 predicated on an actual or anticipated defense” nor on “an actual or anticipated
24 counterclaim”); *U.S. Bank Nat’l Ass’n v. Beas*, 2012 WL 37502 at *1 (C.D. Cal. Jan. 6,

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26 ² Plaintiff fails to provide a copy of the underlying complaint for the Court’s inspection, as is
27 required under 28 U.S.C. § 1446(a). Notably, such failure constitutes an independent basis for
28 remand. *See B.C. v. Blue Cross of Cal.*, 2012 WL 12782, at *2 (C.D. Cal. Jan. 3, 2012) (“Remand
may be ordered either for lack of subject matter jurisdiction or for any defect in removal
procedure.”).

1 2012) (remanding unlawful detainer action to state court where Defendant alleged due
2 process violation).

3 Accordingly, IT IS ORDERED that: (1) this matter be REMANDED to the
4 Superior Court of California, County of Orange, North Justice Center, 1275 North
5 Berkeley Avenue, Fullerton, CA 92832, for lack of subject matter jurisdiction pursuant
6 to 28 U.S.C. § 1447(c); (2) the Clerk send a certified copy of this Order to the state
7 court; and (3) the Clerk serve copies of this Order on the parties.

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10 DATED: June 12, 2017

A handwritten signature in black ink, appearing to read "Josephine L. Staton", written over a horizontal line.

HON. JOSEPHINE L. STATON
UNITED STATES DISTRICT JUDGE